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RIGHTS OF THE CHILD

Written statement submitted by the Friends World Committee for Consultation (Quakers), a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

(17 December 1993)

Child soldiers

1. The World Conference on Human Rights (Vienna Declaration and Programme of Action, para. 50) strongly supported the proposal of the Committee on the Rights of the Child that the Secretary-General should initiate a study, and called on the Committee to study the question of raising the minimum age of recruitment into armed forces.

2. This proposal was endorsed by the General Assembly at its forty-eighth session, in the resolution, adopted by consensus with 74 States sponsoring, entitled: "Protection of children affected by armed conflicts", which, inter alia, "Requests the Secretary-General to appoint an expert, working in collaboration with the Centre for Human Rights and the United Nations Children's Fund, to undertake a comprehensive study of this question,

including the participation of children in armed conflict, as well as the relevance and adequacy of existing standards, and to make specific recommendations ...". The resolution was introduced by the delegation of Ecuador and co-sponsored by Afghanistan, Andorra, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Azerbaijan, Bahamas, Barbados, Belgium, Belize, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Burkino Faso, Cambodia, Cameroon, Canada, Chile, Colombia, Costa Rica, Cote d'Ivoire, Cuba, Cyprus, Denmark, Dominica, Dominican Republic, Egypt, El Salvador, Ethiopia, Finland, France, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, Iceland, Ireland, Jamaica, Kyrgyzstan, Liechtenstein, Mexico, Monaco, Mongolia, Morocco, Namibia, New Zealand, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Solomon Islands, Spain, Suriname, Sweden, Tajikistan, Togo, Trinidad and Tobago, Uruguay and Venezuela.

3. The Friends World Committee for Consultation welcomes this decision and the wide support given to it and urges all interested parties, including non-governmental organizations, to contribute to this study in order to ensure its comprehensive scope and to maximize the effectiveness of its recommendations.

4. At its Triennial Meeting in 1979, the Friends World Committee for Consultation, which represents Quakers around the world, expressed its abhorrence of the widespread involvement of children in military training and armed conflicts. Since 1985, Quakers have submitted information on child soldiers to the United Nations and campaigned for improved international standards and mechanisms to reduce and eventually eliminate the use of children in armed forces.

5. We, therefore, welcome the proposal from the Committee on the Rights of the Child for an optional protocol to the Convention on the Rights of the Child raising the minimum age of recruitment to 18 years. We urge States to endorse this initiative and recommend that the Commission on Human Rights establish an open-ended working group to elaborate an optional protocol on this subject. The expert appointed by the Secretary-General to study the protection of children affected by armed conflicts should be involved in the proceedings of the working group.

6. At the time of drafting, the Convention on the Rights of the Child was intended to set new standards for the protection of children. Unfortunately, there was some resistance to improving the standard in relation to the involvement of children in armed conflicts, and, indeed, the lower of the two existing international standards (that contained in article 77 of Additional Protocol I of 1977 to the Geneva Conventions of 1949) was incorporated into the Convention. Not only was this regrettable in itself but it is doubtful whether it reflected the will of the international community. In an appendix

to their study on Child Soldiers, Cohn and Goodwill-Gill 1/ highlight the fact that there is an emerging norm of international law of a minimum age of 18 years for recruitment into armed forces: of the 100 countries for whom the question is relevant and on which information was available, only seven recruit below the age of 18 years. The time would, therefore, seem right to rectify this shortcoming in international human rights law.

7. Since the optional protocol would be designed to increase the protection of children in such circumstances, the Friends World Committee for Consultation recommends that the highest current international standard should be the starting point rather than article 38 of the Convention on the Rights of the Child. We propose that, following the model of Additional Protocol II to the Geneva Conventions of 1949, article 4 (3) (c), article 1 of the draft optional protocol should read:

> "Children who have not attained the age of eighteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities."

8. Pending completion of the study on protection of children affected by armed conflicts and of the optional protocol to the Convention on the Rights of the Child, we would like to make the following recommendations:

(a) States parties to the Convention on the Rights of the Child should make unilateral declarations stating that they will not recruit persons under 18 years into their armed forces;

(b) The United Nations Special Rapporteur on the sale of children should continue and expand his monitoring of the recruitment of children into armed forces and their participation in hostilities;

(c) States parties to the Geneva Conventions and Protocols should take steps not only to respect but also to ensure respect for humanitarian law (as required by article 1 common to the Conventions), including those provisions concerning recruitment of children and their involvement in hostilities, and to assist the International Committee of the Red Cross (ICRC), in its role as guardian of international humanitarian law, in this matter. In particular, the ICRC should be fully supported in encouraging the parties to the conflict to comply with article 77 (2) of Additional Protocol I and article 4 (3) of Additional Protocol II;

(d) States parties to the Geneva Conventions and Protocols should be reminded of their obligation to treat captured child soldiers as prisoners of war even if they are under 15 years. Furthermore, their age may entitle them

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1/ Ilene Cohn & Guy S. Goodwin-Gill, Child Soldiers (Geneva, Henry Dunant Institute, August 1993), pp.151-170.

to additional protection, in particular, the absolute prohibition on the application of the death penalty on those under the age of 18 years at the time of the commission of the offence;

(e) Those Governments, political movements and others who have friendly relations with armed opposition groups should exert their influence and encourage them to respect international norms governing hostilities;

(f) Children fleeing abroad from recruitment into armed forces should be recognized as refugees in their own right and guaranteed protection and assistance by the international community;

(g) The United Nations, the specialized agencies, Governments and non-governmental agencies should provide all necessary assistance to those children who have suffered physical or mental injury on account of their participation in armed forces and in hostilities, including reintegration into civilian society and peaceful values through education and employment;

(h) The United Nations should provide advice and technical assistance to Governments and non-governmental organizations wishing to better understand and to implement existing standards concerning the recruitment of children into armed forces and their participation in hostilities;

(i) The United Nations, Governments and non-governmental organizations should continue to alert the public to the scope of children's participation in war and its effect on their personal development and on the evolution of society. The public should be made aware of measures being taken, and how they can support them, to inform children of their right not to be recruited, to alleviate the suffering of child soldiers and to reintegrate them into society.